

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RALPH W. MCCLAIN, SR.,  
Plaintiff

v.

DR. KALE, et al.,  
Defendants

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CIVIL NO. 1:10-CV-0035

*O R D E R*

We are considering the report and recommendation of the magistrate judge recommending that Defendant's motion for summary judgment be granted. Plaintiff has filed an objection to the report. Since an objection was filed, the court must "make a *de novo* determination of those portions of the report or specified proposed finding or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(c). Plaintiff's objection is that Defendants' motion, and the magistrate judge's report, concerns an incident that was not actually complained of, and is therefore not the subject of Plaintiff's action. We have reviewed the complaint and record and find Plaintiff's objection without merit.

Accordingly, this 17th day of September, 2013, upon consideration of the report and recommendation of the magistrate judge (Doc. 112), and the objection that was filed, (Doc. 113), and upon independent review of the record, it is ORDERED that:

1. The magistrate judge's report (Doc. 112) is adopted.
2. Plaintiff's motion (Doc. 111) to stay is denied.

3. The motion (Doc. 95) for summary judgment filed by defendants Bath, Corbett, Rothsburn, Wilks, Lt. Bleich, Sgt. Muscial, Michael Klopotoski and Robin Lucas is GRANTED.

4. The Clerk of Court shall enter judgment in favor of defendants Bath, Corbett, Rothsburn, Wilks, Lt. Bleich, Sgt. Muscial, Michael Klopotoski and Robin Lucas and against Plaintiff.

5. This matter is remanded to the magistrate judge for further disposition.

/s/ William W. Caldwell  
William W. Caldwell  
United States District Judge